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Closing the Seasonal Agricultural Workers Scheme: A Triple Loss

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Abstract

Despite temporary migration programmes (TMPs) being heralded as achieving a triple win – whereby the host state, the sending state and the migrants themselves all benefit – the UK government has now terminated all such programmes, including the long-standing Seasonal Agricultural Workers Scheme (SAWS). At the same time, TMPs have been heavily criticised by both the academic and policy sectors, as they tie workers to employers in rigid ways and lack integration measures. This paper reviews the SAWS scheme, including the policy evolution of the programme and the reasons for the closure. We argue that the government is inflicting a multiple loss scenario, whereby permanent immigration may increase, labour market shortages will be rife, remittances and skills transfers will be lost, and irregular immigration and in turn exploitation of migrant worker rights may be exacerbated. Whilst the policy design of SAWS was far from perfect, we argue that a modified version, targeting agricultural students, should be retained, which could restore the triple-win scenario.

Keywords

temporary migration, seasonal agricultural work, integration, triple-win migration scenario, UK labour market

Introduction

The slogan that ‘there is nothing more permanent than temporary foreign workers’ has been a popular phrase to express the perceived failures of temporary migration programmes (TMPs). TMPs have a long and contentious history for Western nation-states, where temporary labour evolved to permanent settlement, best encapsulated by the German experience of the guestworker system. What began as an expedient measure to fill temporary labour shortages in the early postwar period evolved into large-scale immigrant settlement, in turn transforming Germany into an ethnically diverse country of immigration (Ellerman 2015: 1236). Germany has since been ‘haunted by the mistakes, failures and unforeseen consequences of the guest worker era’ (Freeman 1995: 890). Germany is hardly the exception to the unintended settlement of TMPs. The USA similarly faced feedback effects from the temporary *bracero* programme, as have other European states. Unsurprisingly then, Western states have been wary of operating TMPs during recent decades for fear of unintended settlement.

Yet, as global labour market needs have evolved, and immigration regimes have become more mechanistic in their outputs, there has been some resurgence in TMPs and the advantages these programmes can bring. TMPs are back in fashion for a number reasons. Firstly, since the ‘global race for talent’ began in the late 1990s, there has been understandable concern over the impact of brain drain on sending countries. TMPs, and the model of return which is implicated, could possibly alleviate some forms of brain

drain. Secondly, established research has found that large-scale remittances, transferred by both high and less skilled immigrants, greatly improve the welfare of the persons left behind (Dustmann and Mestres 2010). Finally, and most pertinently for destination states, migrant workers on TMPs meet labour market demands but do not, or rather are not intended to, settle in the host state, thus appeasing public concerns over immigration whilst meeting employers' demands (Martin 2008: 17).

However, TMPs have been heavily, and rightly, criticised by both the academic and policy sectors, as they tie workers to employers in rigid ways (Hennebry 2012; Wickramasekara 2008), which can violate of migrant workers' rights (Basok 2004; Castles 2006; Ruhs 2013; Nakache and Kinoshita 2010). In this way, TMPs have been criticised for creating 'second-class citizenship' (Lenard and Straehle 2012; Preibisch 2010). Yet few studies have examined the lack of integration measures available on TMPs, and the effects such integration initiatives could have in the way of curbing the violation of migrant worker rights (Hennebry 2012; Lenard and Straehle 2012; Wickramasekara 2008).

TMPs purportedly achieve the so-called 'triple-win' outcome in the following way: the host country can meet labour market demands whilst appeasing electoral concerns over permanent settlement; the sending country benefits from both remittances and skills transfer/brain gain from migrants acquiring skills in the destination state and transferring these skills on return; and the migrants themselves benefit by a mechanism which provides people from low-income countries with better access to labour markets in high-income states. Ultimately TMPs are pitched as the in-between solution which satisfies both the 'no borders' and 'no migrants' arguments (Martin 2007; Ruhs and Martin 2008: 260). At a time where immigration is so salient, becoming a top three voting issue in the UK since the 2000s (Duffy 2014), appeasing both public concerns and employer demands is a requisite for governments. Thus the renaissance of TMPs is unsurprising.

In contrast to the global trends towards utilizing TMPs to meet foreign labour demands, the UK government has now closed all temporary labour migration programmes. Whilst the cultural exchange Youth Mobility Scheme remains in place, both the Sector Based Scheme and long-standing Seasonal Agricultural Workers Scheme (SAWS) were terminated at the end of 2013. The ending of SAWS represents a turning-point in the UK's immigration history, being both the first temporary programme to be established, but more significantly the longest-running migration programme – an unprecedented seventy years. It is thus a fitting time to reflect on the policy evolution of these schemes, and more importantly the impact and repercussions of their closure.¹

¹ This paper was originally prepared for the EU Framework 7 TEMPER programme for Work Package 2 on seasonal work flows. The task was to provide a detailed report outlining the policies, programmes and demographic factors that drive seasonal work flows in the UK, in the period between 2000 and 2015. The country reports for France, UK, Spain and Italy culminated in a comparative inventory report by Work Package leader Dr Ana María López-Sala, see <http://www.temperproject.eu>

Based on desk research and interviews with stakeholders,² we argue that in contrast to the triple win, by closing SAWS the government are inflicting a multiple loss, whereby permanent immigration may increase, labour market shortages will be rife, remittances and skills transfers will decrease, and irregular immigration and therefore exploitation of migrant worker rights may be exacerbated. Whilst the policy design of SAWS was far from perfect, we argue that a modified version which targets agricultural students and includes integration mechanisms would achieve a triple win, whilst also appeasing public concerns over permanent immigration.

The paper is divided into three main sections. In the following section we provide a policy overview of the SAWS, discuss the strengths and weaknesses of the programme, and reflect on the reasons for closing the scheme. Secondly we discuss the impacts of the closure of SAWS on three domains: on the UK as the destination state; on the sending countries that previously participated; and on the migrants themselves. We deduce that the UK government has actually imposed a triple loss. We conclude the paper with policy recommendations. We recommend that a modified version of SAWS should have been retained, one akin to the pre-1990s student exchange model. This is in line with recommendations of the Migration Advisory Committee (MAC 2013), the National Farmers Union (NFU 2012) and Scott (2015).

Policy evolution and overview of the SAWS

The SAW scheme was established in 1945 as a cultural exchange scheme to encourage young, predominantly agricultural, students from across Europe to work in agriculture in the peak seasons. The scheme emerged as a way of recruiting foreign nationals to fill labour market demands following the shortage of British manpower. The scheme had ‘very strong roots in education, youth mobility’ (interview with NFU 2011), with students predominantly from Eastern Europe and the former Soviet Union states dominating the scheme (Martin et al. 2006). However, over time the scheme evolved as a tool to meet labour demand in the agricultural sector more generally, crystallised by the previous Labour government’s reforms, which sought to frame immigration as part of a wider economic growth agenda (Consterdine 2014; Treasury 2000). Whilst in the 1990s the annual quota was set at 10,000 approximately, under the Labour governments the quota was increased by 15,000 places in total, rising to 15,200 in 2001 and 25,000 in 2003, due to ‘shortages in the supply of seasonal and casual labour’ (Work Permits UK 2002).

The SAWS was modified over the years, but it was in 1990 when the scheme became a quota-based system, beginning with an annual quota of 5,500 workers (Spencer et al. 2007). Before the closure of the scheme in 2013, SAWS had reached a

² Interviews were conducted for each author’s respective doctoral research. Consterdine conducted 54 interviews between 2011 and 2014 for the thesis titled *Interests, Ideas and Institutions: Explaining Immigration Policy Change in Britain 1997-2010*; Samuk conducted 53 interviews between September 2013 and June 2015 for the thesis titled *Temporary Migration and Temporary Integration: UK and Canada in a Comparative Perspective* (see Consterdine 2014; Samuk’s thesis is ongoing).

quota of 21,250, a four-fold increase from the original 1990 quota (Table 1). The exact quota changed year-on-year according to the usage of the quota, labour market needs and the availability of European labour. The drop in in the 2004 quota for example was made on the assumption that migrants from the newly acceded EU member-states (A8) would fill any residual labour shortages. Ten per cent of the 345,000 workers registering in employment as accession country nationals between enlargement on 1 May 2004 and 31 December 2005 registered with employers in agriculture or fishing (Gilpin et al. 2006: 20).

Table 1: SAWS work cards and quota used

<i>Year</i>	<i>SAWS work cards printed</i>	<i>SAWS quota</i>	<i>Percentage of SAWS quota used (%)</i>
2004	20,554	25,000	82
2005	15,611	16,250	96
2006	16,171	16,250	100
2007	16,796	16,250	103
2008	16,461	16,250	101
2009	20,179	21,250	95
2010	19,798	21,250	93
2011	20,035	21,250	94
2012	20,842	21,250	98

Source: Home Office, taken from MAC Report (2013: 50).

Data shows that it was first Russians and then Ukrainians, together with other non-EEA nationalities, which filled seasonal labour demands. However, over time these patterns have changed. According to the MAC (2013: 57), from 2004 to 2007 most participants on the scheme (81-96 per cent) came from Eastern Europe and specifically from six source countries: Ukraine (33 per cent of Eastern European SAWS workers, 2004 to 2007), Bulgaria (23 per cent), Russia (15 per cent), Romania (11 per cent), Belarus (9 per cent) and Moldova (6 per cent). Scott et al. (2008) found that under the SAWS fewer than 30 per cent of the seasonal workers were from Bulgaria and Romania, around half of the workers were from A8 countries, and only one sixth of workers were from the UK.

Whilst in 2004 the UK government did not initiate transitional measures on nationals of the A8 countries, thereby giving unfettered access to the UK labour market for these citizens, the UK government imposed full transitional controls (seven years) on Bulgaria and Romania following the 2007 accession. Thus, as a concession to the new accession states of Bulgaria and Romania (A2), the government stipulated that only A2 migrants could work on the SAWS from 2008. Forty per cent of the quota for SAWS was reserved for Bulgarians and Romanians in 2007 with the scheme then exclusively open for Romanians and Bulgarians from 2008, and ‘that’s why the student

restriction was taken off, which at the time the industry objected to a lot, because they wouldn't be from an agricultural background but the sector has got used to that now and they just made their recruitment process more rigorous (NFU policy officer, interview 2011). Unsurprisingly then, in 2013 when the scheme was closed, it was Bulgarians and Romanians who had filled the majority of the quota.

The time permitted on a SAWS visa was six months. After six months workers on the SAWS were allowed to stay in the country up to 12 months (Herefordshire Council 2014) but without the right to work. The MAC (2013) found that most Bulgarians returned to their homes after six months of work, suggesting effective circular migration. However, with transitional controls for A2 citizens lapsing in 2014, the return rate of A2 citizens is currently circumspect. Table 2 summarises these changes to the scheme over the years since 2000.

Table 2: Changes to SAWS throughout the years

<i>Years</i>	<i>Changes</i>
2000	Quota was 10,000
2004	Quota increased to 25,000
2004	A8 Accession
2005	Quota decreased to 16,250
2005	Introduction of fines for employees who are caught employing illegally residing immigrants
2007	40 per cent of the quota allocated to A2
2008	SAWS fully restricted to A2
2007/2008	Labour shortages reported
2008	The MAC recommended an increase in the quota from 16,250 to 21,250
2009	The quota was increased to 21,250 with the suggestion of the MAC

Actors involved

Different actors from both sending and receiving countries were involved in the operation of SAWS. Gangmasters in particular played an important role. In terms of implementation, one of the most important sets of actors were the operators, particularly in terms of liability, characteristic of the trend towards ‘outsourcing’ migration controls to private actors (Lahav 1998). Operators were responsible for recruiting and processing applications, ensuring that farmers provided suitable accommodation and adhere to regulations around work rights such as the minimum wage, and ultimately for the liability of those workers who had breached their visa terms and conditions (Simpson 2011: 11). Without operators’ permission, workers could not switch to another farm site. Hence operators formed the control mechanism for the lives of the workers. Nine operators³ managed the SAWS on behalf of the UK Visas and Immigration Directorate (formerly known as the UK Border Agency). However, SAWS was, in the main, an industry-run scheme with only a ‘light touch’ from the Home Office in terms of enforcement:

If they [Home Office] don’t like an operator, they’ll just mention it and the operator will get their standards in order and it was off the political radar. Because there would only be a six-month work permit to work in the UK it would never catch the attention of anybody – greatly appreciated by the industry. But it wasn’t controversial because there was no right to remain in the country (interview with NFU, 2011).

A national catastrophe in 2004 served to highlight the potentially devastating effect of language barriers, and the potential exploitation of migrant workers, in turn prompting government action to better regulate the low-skilled sector. This was the Morecambe Bay Cockling disaster, which resulted in the death of 23 Chinese workers. As a result the Gangmasters Licensing Authority (GLA) was established on 1 April 2005, with the primary purpose to prevent the exploitation of workers in the agricultural and food sector. The GLA is a non-departmental public body with a board of 30 members from the industry, unions (including the umbrella Trade Union Congress) and government. The GLA’s purpose is to attempt to ensure that the employment standards required by law are met. However, it is not compulsory for the *sole operators* to sign up for the GLA. Only those registered are inspected by the GLA.

The new law made it an offence to use labour provided by an unlicensed gangmaster. Thus gangmasters increasingly had to show they were not cutting corners, for example on wage payments or non-wage benefits such as holiday pay, nor charging

³ These were Concordia (YSV) Ltd (8,125 work cards allocated 2013); HOPS Labour Solutions Ltd (8,100 work cards allocated 2013); Fruitful Jobs Ltd (620 work cards in 2013); Sastak Ltd (300 work cards allocated in 2013); S & A Produce (UK) Ltd (1,500 work cards issued in 2013); S & A Produce (UK) Ltd (1,500 work cards issued in 2013); Barway Service Ltd (1,225 work cards issued in 2013); Haygrove Ltd (575 work cards issued in 2013); R & J M Place Ltd (525 work cards issued in 2013); Wilkin and Sons Ltd (280 work cards issued in 2013)

excess fees for transport, or exorbitant rents on accommodation (Rogaly 2008: 503). GLA is a unique institution and has been heralded as a role model for other countries to prevent exploitation of agricultural labour (interview with GLA, 2014). Indeed the GLA is seen as an effective measure to ensure migrant workers' rights, but is also met with support by employers:

They [government] were always keen to penalise and look at immigration status, but they were very reluctant to extend the way in which workers' rights could be enforced. The GLA was, I think, an aberration in a sense; I'm quite surprised it's lasted as long as it has. Except of course the surviving businesses in the sector now see it as a protective measure, because it prevents them being undercut by less scrupulous or observant employers, so they were always quite keen that the government should take some responsibility on enforcing laws rather than them. So they quite like it funnily enough. Of course it's not ostensibly about enforcing workers' rights, it's about ensuring that businesses are properly licensed. But nevertheless, I think in terms of behaviour, I think it has affected that sector (former TUC policy officer, interview 2011).

Some 1201 labour providers had been licensed by the end of 2008, and during this period 78 licenses were revoked for breaches discovered during inspections, such as when a Suffolk gangmaster failed to pay statutory holiday pay, or when a Preston gangmaster failed to check on whether employees had the right to work in the UK (Sargeant and Tucker 2009: 14).

A further set of actors involved in the recruitment and regulation of SAWS were the employers themselves, as their responsibilities were tied to the rights of migrant workers. Since the employer is supposed to provide work, accommodation and transport for a six-month period, the employees are arguably too dependent on the employers. While the GLA has enhanced the rights of seasonal migrant workers, it has been criticised for not doing enough to regulate the sector. Scott (2007: 1) for example, argues that these regulations have been more symbolic rather than 'substantive rebalancing'. Furthermore, the fact that on the SAWS it was almost impossible to change employer during a worker's period of stay as part of the agreement, is outside the scope of the GLA's enforcement remit. This aspect of dependence, a common feature of many TMPs and particularly agricultural TMPs, has been criticised across the policy sector, including Justice for Migrant Workers and by unions such as the United Food and Commercial Workers Union.

Rights and exploitation

Under the SAWS program, rights granted to SAWS workers were protected via different mechanisms. In this section, we examine the literature concerning rights of migrant workers *de jure* and *de facto*.

Exploitation of temporary migrant workers comes in many forms, but what is perhaps distinct about agricultural TMPs is that the employers usually provide workers'

housing. Whilst this can be advantageous for workers, in many cases workers experience poor living conditions, as was the case on some SAWS sites. For example, Spencer et al. (2007: 43-44) found that, of the 82 agricultural workers they interviewed, 17 per cent said that their accommodation was 'poor' or 'very poor'. However, it was found that 'the workers whose accommodation is entirely unregulated are particularly dissatisfied with it, suggesting some success in the regulation of accommodation provided to SAWS workers' (Spencer et al. 2007: 44). One reason for the apparent poor living conditions of migrant agricultural workers is the assumption that, since the migrants themselves consider such work temporary, they are indifferent about their living conditions (Mayer 2005). Yet this creates further vulnerability. The isolated accommodation which migrant workers occupied meant that some SAWS workers found it harder to interact with British people and integrate, making workers 'reliant on the company of other SAWS workers or some instances that of their employers or their families' (Spencer et al. 2007: 61):

Yet the poor living conditions many migrant workers experience is a peripheral issue in contrast to the exploitation that some experience at work. For example, of the gangmasters Scott (2007: 6-7) interviewed, only 6 per cent claimed that worker exploitation was *not* an issue in the agriculture sector, demonstrating the need for regulatory oversight. Martin Ruhs (2006: 24) attributes such exploitation to the institutional arrangements common in TMPs of tying the migrant worker to the employer, granting employers almost total control over the workers' lives. Ultimately for the employer, the ideal worker is a temporary one given that, over time, migrant workers become more aware of their rights and are therefore more likely to make demands on their employers to enforce these (Spencer et al. 2007).

Exploitation of migrant workers is also much more likely if people do not speak the native language. Spencer et al. (2007: 28) conducted research into how much migrant workers were informed of their rights before they came to the UK. They found that those who spoke English had more information and it was easier for them to access information compared to other groups that faced language barriers. Language therefore proves to be crucial in terms of preventing exploitation of migrant workers (see Preibisch and Otero 2014). It was also found that those who had the most difficulties in work were the ones who said that they did not receive any information about their job before or after their arrival (Spencer et al. 2007: 33), suggesting a pressing need for pre-training programmes to avoid exploitation (ILO 2014). Furthermore, because of the nature of work on SAWS in terms of time demands and shift work, such migrant workers are not necessarily able to take English courses and improve their language to integrate into their local community.

These policies, which aim exclusively for temporary stays, are flawed if they do not provide adequate rights to the temporary migrant workers (Ruhs 2006), but states are often resistant to providing language courses in fear that they may encourage workers to stay longer and become permanent, as was the case on the SAWS (Interview with South East Strategic Partnership for Migration, 2015). The importance of language acquisition in terms of preventing exploitation suggests that some form of integration programme should be attached to TMPs. Yet in practice none of the current TMPs are

designed in tandem with any kind of integration policy, and this negligence lies at the heart of the problems regarding rights and exploitation.

Government closure of SAWS

As the Conservative-led Coalition government entered office in 2010, one of the first orders of the day was to put measures in place to achieve the Conservative manifesto pledge of reducing net migration from the hundreds of thousands to the tens of thousands (Conservative Party 2010; HM Government 2010: 21). The principle behind such a target was to control immigration ‘so that people have confidence in the system’ and to ‘ensure cohesion and protect our public services’ (HM Government 2010: 21). A restrictive policy from the Conservatives was not unexpected, and in line with their ideological alignment (Bale 2008); nonetheless having a target in the first instance arguably represents the most explicitly restrictive policy to date.

The policy reforms initially appeared to be somewhat effective at cutting immigration. Net migration had been falling, with levels at 153,000 in the year to September 2012, down from a peak of 255,000 in the year to September 2010. However, figures released in spring 2015, showed that net migration had reached 330,000 (up 94,000 from year-end March 2014) (ONS 2015a), the highest net migration on record, and higher than when the Coalition entered office in 2010. In response, the government had to concede that they would not meet the pledge set out to reduce net migration by the end of the last Parliament in 2015. Despite this failure, the Conservative Party maintained their aspirational target for the current parliament (Conservative Party 2015).

A major component of the Coalition’s policy, and indeed of the current Conservative government, is the need to make economic immigration an exclusively temporary phenomenon, or ‘break the link’, as epitomised by Theresa May in 2010:

It is too easy, at the moment, to move from temporary residence to permanent settlement...Working in Britain for a short period should not give someone the right to settle in Britain...Settling in Britain should be a cherished right, not an automatic add on to a temporary way in (May 2010).

This appears to be a ‘point of principle for the Conservatives’ (Cavanagh 2011), with Prime Minister Cameron stating in April 2011, ‘It cannot be right that people coming to fill short-term skills gaps can stay long term’ (Cameron 2011). According to the former UK Border Agency, the curtailing of settlement rights will ‘discourage over-reliance on foreign workers’ (UKBA 2011: 1), yet past experience suggests otherwise. As Cavanagh (2011: 4) puts it, ‘the more likely result is a shift to a constantly churning population of temporary working migrants – because although the need is permanent, the government is choosing for that need to be satisfied by people who stay only temporarily’.

In the wider ambition to cut net migration drastically and break the link between temporary and permanent migration, the government then unsurprisingly closed both

the Sectors-Based Scheme and the Seasonal Agricultural Workers Scheme in December 2013, to coincide with transitional controls lapsing for A2 citizens from Bulgaria and Romania in January 2014. Both the previous Coalition and current Conservative government are adamant that there should be no low-skilled migration labour routes, exemplified further by the fact that the low-skill Tier 3 of the points-based system remains closed. The government's justification for closing the scheme was, in the main, to eradicate any potential job displacement of the native workforce; thus the closure was made on the assumption that the EEA and particularly the British workforce would begin to fill these shortages. The stated reasons by former Immigration Minister Mark Harper for the closure was to prevent job displacement of British workers, and that EEA labour can adequately fill any remaining labour demands from employers (Harper 2013).

Loss one: host state

Whilst the government's intention behind the closure of SAWS was ultimately to reduce net migration, end all low-skilled migrant channels, and purportedly increase employment amongst the native population, we argue that the cessation of the scheme is likely to have the adverse effects of increasing permanent migration, increasing irregular migration, and causing a shortage of labour in the agricultural sector. In contrast to the 'win' TMPs give the host state in terms of meeting labour market demands whilst appeasing public concerns over migration, the government's decision to close the scheme effectively means the government 'loses', as labour demands will not be met but at the same time net migration is unlikely to decrease as a result, nor will be public concerns appeased.

The British system of political economy has typically been regarded as a liberal market economy (Hall and Soskice 2001: 8). There is consequently a lack of coordinated wage bargaining arrangements, and firms primarily coordinate their activities via competitive market arrangements. As a result, there are incentives for employers to delay costly technological advancements in favour of depending on low-wage labour (Menz 2008: 156). The flexibility, availability, often superior training and educational background, and 'soft' factors such as a stronger work ethic and commitment affiliated with migrant labour, have all meant that British employers on the whole embrace immigration. The Chartered Institute of Personnel and Development (CIPD) have consistently highlighted that their members are more likely to consider hiring migrant workers than the 'core jobless', such as the over-50s and single parents (CIPD 2005: 3; TUC 2007: 12). Agricultural production is perhaps the sector that relies the most on importing foreign labour.

Agricultural employers have long favoured foreign labour over the British workforce. Such preference is driven by a number of factors, but the overriding determinant is a superior work ethic and other soft skills (Ruhs 2006: 78). For example, in a survey of employers conducted by the National Farmers Union, one employer speculated that 'UK workers do not seem to have an appropriate work ethic or attitude in our experience' and another said that there was a 'good response to the advert, but

the majority [of British workers] gave up within a week... SAWS made a huge difference and stabilised our workforce' (NFU 2012: 7). In a Home Office study involving 124 interviews with employers across five sectors, only in agriculture did employers unequivocally see migrant workers as 'crucial' to their businesses (Dench et al. 2006, p.35). Consequently the sector has come to rely on foreign labour to fill labour market shortages (Rogaly 2008).

However, whether such reliance can be said to constitute inevitable structural dependency is debatable. Anderson and Ruhs (2010) suggest that in many sectors increasing employer demand for migrant workers can be explained by a 'systems effect' that 'produces' certain types of labour market shortages. System effects arise from institutional and regulatory frameworks of the labour market and from wider public policies, such as welfare and social policies, which are not necessarily related to the labour market. Such forces are heavily influenced by the state and thus mostly reside outside the control of individual employers and workers. On the other hand, it could be argued that employers create such dependence, by offering poor working conditions which are unattractive to those with secure residency, i.e. the native workforce. Geddes and Scott (2009) argue that such reliance on migrant workers in the low-skilled sector – such as agriculture – is not inevitable but is rather 'constructed'. Drawing on segmented labour market theory (Massey et al. 1998; Piore 1979), they claim that it is possible for firms to offset the costs of an uncertain market by 'passing this uncertainty on to certain groups of workers' (Geddes and Scott 2010: 198). This 'temporary workforce constitutes the secondary labour market and it is here where the least desirable and most insecure forms of employment are concentrated' (2010: 198). Rogaly (2008) likewise argues that, through mechanisms of intensification, agricultural employers have used vulnerability to ensure compliance in the labour force.

Employers' offering of poor working conditions then, at least partly, constructs the dependence on foreign labour in the agricultural sector. Nonetheless, without a costly, and thus unlikely, overhaul of employment practices and terms and conditions of agricultural labour to make it more attractive to workers, farmers and growers will face potentially detrimental labour market shortages as a result of the cessation of SAWS. Notably, the government chose to ignore its own independent body's recommendation on the matter; the MAC (2013) concluded that whilst terminating the SBS would have no negative effects on the labour market, by contrast closing SAWS could be damaging in the long term for the agricultural sector. Such claims were made for several reasons, partly because the SBS was a much smaller scheme than SAWS and thus the closure would have less of an impact on the sector (MAC 2013: 18). Furthermore, there was evidence of misuse of the SBS, particularly leading to permanent migration of low-skilled workers (interview with representative of the British Hospitality Association 2012). The MAC recommended that a transitory alternative programme be put in place (MAC 2013: 4), a scheme also advanced by the NFU (NFU 2012). Suffice to say no such system has been established, and the sector has berated such inaction.

Most agricultural employers claim it is too early to know the full impacts of closing SAWS, but that the repercussions are likely to be felt long-term (GLA 2014).

This is due to the labour supply from Bulgaria and Romania ‘not immediately drying up’ following the closure of SAWS, and due to contingency efforts put in place to ease the transition of the closure including making a limited number of work cards available. Many in the industry claim that whilst farms had an adequate workforce for 2014 and potentially in 2015, there will be a ‘workforce drought’ in 2016 (Chinn, Cobrey farms). For 2014 many employers had organised their workforce through agencies such as Concordia and HOPS, but by 2015 many stakeholders, including Andrew Colquhoun, chairman of the Farming and Rural Issues Group for the South East, claim ‘it is likely that Romanians and Bulgarians will move to other areas of the economy’.⁴ Whilst smaller businesses look to be unaffected by the closure of SAWS (GLA 2014: 10), business turnovers exceeding £1 million could face major shortages, and in turn describe the impact of the closure of SAWS as very negative. In a survey of labour users conducted by the National Farmers Union (NFU), over 95 per cent of growers who used SAWS in 2012 said that the removal of the scheme would have a negative impact on their business. Whilst since the cessation of the SAWS scheme, the number of British nationals employed (directly or via a labour provider) has indeed increased, this could be for a number of reasons including the need for workers was greater than the quota had allowed, higher turnover of workers and/or more workers available (GLA 2014: 5).

The sector has been very vocal in its opposition to the government’s decision to terminate SAWS, often deploying media-related strategies in their lobbying efforts and ‘going public’ (Kollmann 1998). Meurig Raymond, deputy president of the NFU, said that their members were ‘outraged’ at the decision to close SAWS and that it ‘completely contradicts David Cameron’s belief that farmers are the backbone of Britain and the recommendations of the Migrant Advisory Committee that horticulture would suffer immeasurably without access to a reliable, flexible and consistent source of migrant seasonal workers’.⁵ The NFU have further claimed that the termination of SAWS will ‘cause a contraction in the British horticulture sector, one of which is already suffering from falling self-sufficiency levels. It will put thousands of existing permanent UK jobs at risk, stifle growth, compromise food security and jeopardize the industry’s efforts to take on hundreds more UK unemployed for permanent work’.⁶ Likewise, the British Growers’ Association lambasted the government’s decision to ignore the MAC’s recommendation, claiming that the decision was ‘ill considered’, as the horticultural sector in the UK is a ‘high value sector’ in need of labour. Chief Executive of the British Growers Association (BGA) James Hallett has similarly accused the government of ignoring the advice of its own advisory committee to consider setting up a replacement scheme, claiming that the government’s decision could ‘have a significant and damaging impact on investment and production decisions affecting the UK with immediate effect’.⁷

⁴ <http://www.fwi.co.uk/arable/farmers-fears-over-loss-of-seasonal-worker-scheme.htm>

⁵ <http://www.bbc.co.uk/news/uk-politics-24064774>

⁶ <http://www.nfuonline.com/news/latest-news/saws-scheme-scrapped-nfu-statement/>

⁷ <http://www.britishgrowers.org/news/item/saws-decision-a-major-blow-to-uk-s-3-7bn-horticulture-sector/>

Attracting resident workers

Drastic shortages in the sector are likely to occur as a result of closing SAWS for two reasons. Firstly, employers predict that the British workforce will be unwilling and therefore unlikely to fill seasonal labour market shortages (MAC 2013). Part of the reason why agricultural employers prefer migrant labour, as mentioned above, is the perceived superior work ethic of migrants in contrast to British workers. As MacKenzie and Forde (2009: 150) show, the A8 workers were categorised as workers with a ‘strong work ethic’, and ‘great workers’ were amongst the phrases that are used by the employers at the time.

Working conditions of agricultural workers have not changed in any substantial way since the closure of SAWS, thus attracting British workers to this type of work will remain challenging. Agricultural work is essentially a ‘3D’ job – dirty, dangerous and demeaning – typically dominated by foreign labour due to the undesirable working conditions. For example, in an NFU survey of employers 71 per cent claimed that there is very little interest to undertake seasonal agricultural work from the native workforce, basically because of the working conditions, in particular the long hours required. Agricultural work is physically demanding, low-paid, with long hours and is highly seasonal. This last feature in particular is a major dissuading factor for taking up agricultural work, as it provides no job stability, as Matt Ware, head of NFU Parliamentary Affairs, commented:

The problem we’ve got, is that for British domestic workers, the benefits system works in a way that makes it unfavourable to work for a temporary period and when it comes to EU workers – they don’t want a seasonal job. They want a permanent job in a café or hotel in London, not six weeks on a farm.⁸

The MAC concluded that it was unlikely that UK resident workers would make up a significant proportion of seasonal workers or replace SAW workers. They saw

...no reason to expect a change in attitudes towards low-skilled manual work in horticulture from the resident labour force without a major drive to accomplish this...Growers also prefer to have workers living on the farms, readily available to work different shifts to satisfy immediate demands from suppliers and retailers, and this arrangement is generally unattractive for people already established elsewhere in the UK (MAC 2013: 159).

British workers have evidently always been able to work in the agricultural sector, yet they make up less than 10 per cent of the agricultural labour force and it is worth noting that only nine farms in 2013 had any temporary/seasonal workers from the UK, dropping to eight in 2014 (GLA 2014: 6). Whilst the Department for Work

⁸ <http://www.ft.com/cms/s/0/7f610fb2-3e70-11e4-a620-00144feabdc0.html#axzz3fDeNwaVc>

and Pensions has purportedly been working with JobCentre Plus, LANTRA (the sector skills council) and the NFU to help unemployed UK residents into horticultural work through training and guaranteed interviews (Harper 2013), these measures seem to have had little impact. Farm Minister George Eustice controversially suggested at a NFU conference in February 2014 that UK benefit claimants should be sent to work on farms to fill any vacancies, stating that:

I know that some people will say ‘you won’t get them (UK unemployed) to do this work, they don’t want to do it’, but as a government, we shouldn’t really tolerate that attitude that says, ‘we’re going to pay people to stay on benefits because they don’t want to do certain types of farm work’. We need to get across and overcome this attitude where we say, ‘it’s OK to pay people benefits and accept that they are not going to take jobs that are on offer’.⁹

Eustice added that the government was working on getting more local people to take jobs on farms, which would be ‘factored in’ to the work the DWP was doing on allocating benefits. Yet the seasonal and temporary nature of agricultural work means that there are administrative hurdles and little incentive for unemployed claimants to return to work for a short period and then, at the end of their seasonal contract, have to look for further work and potentially reapply for welfare assistance; a process which the DWP recognises does not always support smooth transitions from receipt of out-of-work benefits into seasonal work (MAC 2013: 160). As a former TUC policy officer observed,

Agency working is kind of a high-risk strategy – if you’re living here because it’s too insecure for you to have rent to pay/mortgage to pay – the benefits system doesn’t respond very well to ‘I work two weeks, then I didn’t work for ten days, then three days’. Whereas if the actual reproduction of labour costs were carried out like Romanian or Polish somewhere with a much lower cost of living, then you’d say ‘Well I’m here, I’m contingent, I’m here for nine months, I share a room with four other people at that time – it’s feasible’ (interview 2011).

Essentially employers claim that the benefits system is not flexible enough to accommodate this and such concerns have been echoed across the sector, particularly amongst growers. Whilst such assumptions concerning welfare claimants are perhaps unfounded, there is little incentive for settled workers to relocate for temporary work, especially for workers with families where relocating temporarily and for insecure employment would potentially have high material and social costs. This is compounded by the urban/rural disconnect, where the majority of unemployed British workers are located in urban areas, whereas agricultural work is necessarily rural, best represented by Herefordshire, the region which recruits the most foreign workers on SAWS. In the

⁹ <http://www.fwi.co.uk/business/nfu-conference-2014-send-benefit-cheats-to-work-on-farms-says-eustice.htm>

MAC's consultation regarding the impact of ending SAWS, Herefordshire Council's response was that:

Although unemployment has increased during the recession the unemployment rate in Herefordshire remains to be low both nationally and regionally. In October 2012, there were 2671 Jobseekers Allowance claimants living in the county. Even if all of these claimants were to take on seasonal work for growers they wouldn't provide the level of labour that the country's growers need each season (MAC 2013: 6).

Retaining A2 workers

The second factor which is predicted to cause drastic shortages in the agricultural sector is that employers believe that Romanian and Bulgarian workers, now unrestrained in their employment opportunities in the UK, will move to other sectors with more favourable and stable working conditions. Many farmers have concerns that this once-reliable labour pool will be drawn to other areas of the economy, particularly employment in urban areas, where working conditions are better and they can earn higher wages. Half of employers interviewed by the NFU claim that Bulgarians and Romanians will unlikely meet labour demands (NFU 2012: 5). This is not a groundless assumption; employers had already experienced such transitions with A8 migrants at the time of the 2004 accession:

I think the other issue of it was the discovery that in fact this was not a stream of low-skilled migrants that were coming into the country. They were actually highly qualified and their ambitions were to move out as quickly as possible, out of the low-skilled entry jobs that they had come into. They needed jobs quickly, and the ones that are available to them are picking asparagus off the local farms, they did that at home, so they could do that rapidly. But once they started building up their networks and their English started improving, then they started wondering exactly what they could do (Migrant Rights Network interview, 2011).

At the time of writing (July 2015) it is not known how many A2 nationals are working in the agricultural sector, but with better working conditions elsewhere there seems to be little doubt that they will move to other parts of the labour market in the forthcoming years. Essentially the government have played the 'numbers game', assuming that British and A2 labour will continue to fill shortages, yet as a Unison representative commented: 'I think this at the heart of the problem of the migration debate – we're always looking at numbers rather than at people' (Unison interview 2011).

In terms of labour market impact on the agricultural sector, the likely outcome will be higher turnovers, prompting higher recruitment, training and administration costs and potentially slower production, in turn pushing up farmers' labour costs and reducing competitiveness. As a Worcestershire hop and apple grower commented:

The size of the labour pool at any one time will not change, but more people will be coming and going and I imagine we'll be dealing with a bigger number of individuals, more regularly... The biggest thing that will happen is we'll be recruiting more people for the same number of jobs this year.... Eastern European migrants will come into our industry. They will come over to do our jobs, but they will quickly realise they can leave agriculture and find work in urban areas (Ali Capper quoted in Farmers Weekly¹⁰).

Indeed, Andrew Colquhoun, chairman of the Farming and Rural Issues Group for the South East argued that, by closing SAWS,

Farmers and growers will see their margins cut even further after a couple of years of bad weather, or the supermarkets will return to suppliers outside the UK, which affects the viability of what British farmers are doing.¹¹

In a GLA report on the impacts of closure of the scheme, a number of farmers expressed 'concern about their continued ability to meet customer demand and indicated that this was likely to result in additional wasted crops and loss of profit and increased cost to the consumer. This may in time result in businesses going under, as they would be unable to fulfil contracts' (GLA 2014: 30).

Furthermore, as traditionally many workers on SAWS exercised circular migration – returning home at the end of the season and returning to farms the following year – very little training was required for returnees and their earning capacity was enhanced by previous experience. As an NFU policy officer commented:

They're young so they don't tend to clutter up surgeries and prior to 2007 they tended to be recruited from agricultural students, so the industry will benefit as they already have some knowledge of the industry and they'll have suitable expectations of work (interview 2011).

Although the termination of SAWS has brought some benefits to employers – such as no longer having to pay SAWS fees to operators, and no restrictions on length of time workers could remain working – such advantages were nonetheless offset by the incurrence of extra costs due to increased turnover of less experienced staff requiring training, 'resulting in slower production whilst trying to meet the ever increasing demands of retail customers' (GLA 2014: 30).

¹⁰ <http://www.fwi.co.uk/arable/farmers-fears-over-loss-of-seasonal-worker-scheme.htm>

¹¹ <http://www.fwi.co.uk/arable/farmers-fears-over-loss-of-seasonal-worker-scheme.htm>

Community cohesion

The cessation of SAWS could also potentially incur fiscal costs to public services. One of the advantages of using SAWS was that ‘the operators of farms provide a holistic package of support for the individual workers which minimises the support needed from public services, for instance language and translation support’ (MAC 2013: 7). Some agricultural employers had previously introduced initiatives to ensure a positive integration of workers, both within the company and the community as a whole, including providing free English as Overseas Language (ESOL) training (Dench et al. 2006: 18). With the closure of the comprehensive SAWS package, translation costs to public services in concentrated agricultural regions may increase.

Relatedly, because SAWS provided a controlled working period so that workers had to return to their country of origin at the end of the season, employers have put forward concerns that community cohesion could worsen in areas where agricultural work is concentrated. The SAWS scheme was an effective TMP precisely because it was designed for agricultural students, thus workers has a clear incentive to return:

They [SAWS workers] were usually students but not in their final year of study, with the advantage of that being that they’d have a very low absconding rate, i.e. they wouldn’t disappear into the undergrowth because they had a good reason to go back to their country of origin (NFU policy officer, interview 2011).

The concern now is that workers may be reluctant to return home at the end of a season ‘which could result in community impact issues involving alcohol abuse and homelessness resulting in community tension over the winter period’ (GLA 2014: 30). Community cohesion tensions have increased in areas where agricultural migrant workers have dominated, such as Boston and Lincolnshire (interview with NFU 2011), yet because employers provided accommodation as part of the SAWS package, community cohesion problems were somewhat dampened (interview with NFU 2011). Such impacts will do little to appease already growing public concerns over immigration, particularly in light of the fact that those who reside in rural areas are, all else being equal, more in favour of restrictive migration policies in contrast to those who reside in urban areas (OECD 2010: 133).

Indeed, the government’s overall intent behind closing SAWS was to reduce net migration to appease growing public concerns over immigration. Yet the closure of SAWS has done nothing in the way of reducing net migration, and conversely immigration from Bulgaria and Romania since transitional controls lapsed has increased, although not substantially. The latest estimates of long-term migration from the International Passenger Survey are for the year ending December 2014, when an estimated 46,000 Bulgarian and Romanian citizens immigrated to the UK. This is a

statistically significant increase from 23,000 for the year ending December 2013.¹² The estimates for the year ending December 2014 show that there has been an increase in immigration of A2 citizens to the UK, predominately for work. However, this increase began in 2013, before the lifting of restrictions, and appears to have continued into 2014 (ONS 2015b). As an NFU respondent suggested:

Ending SAWS effectively meant this pool of 21,250 jobs was opened up to non-British citizens, with no requirements for these workers to return to their home countries. So we believe that ending SAWS would actually have the effect of adding a potential 21,250 people to the net immigration figures.¹³

Whilst the government did not claim that ending SAWS would reduce immigration from A2 countries, and evidently the settlement of A2 citizens is out of the government's control, the overriding theme of both the Coalition and current Conservative governments' policy has been to restrict migration by closing and curtailing all migration routes for migrants coming from outside the EU/EEA. The termination of SAWS has not had the desired effect in this respect.

Irregular migration, exploitation and the mechanisation of agricultural sector

Perhaps the most alarming potential repercussion of closing SAWS from the government's perspective will be a likely increase in irregular migration in the agricultural sector, a sector already long criticised for exploitation and poor working conditions. As a Unison interviewee commented:

The other solution is that they stay below the surface and are subject to exploitation, and that's not in their interests and it's not in the interests of other workers because it leads to employers taking on people to exploit them and it leads to undercutting (Unison interview 2011).

This is far from being certain, yet if farmers and growers cannot source their labour through legitimate channels such as SAWS, they may 'fall foul of unscrupulous individuals who may commit more serious offences involving illegal labour supply or other potentially more serious criminal offences, for example trafficking or forced labour of the workforce being supplied' (GLA 2014: 30). Indeed amongst employers whom the GLA interviewed in regards to closing SAWS, 'a number of those... have noticed an increase in the "too good to be true" offers made by individuals seeking to supply them with infinite numbers of workers' (GLA 2014: 30). The GLA also found that additional workers required by farmers or growers were now being sourced through current workers and this presents further risk, as the opportunity is there for unscrupulous and potentially illegal gangmasters to operate within this area and exploit

¹² The International Passenger Survey, which only samples a small fraction of those entering the UK, is, however, not an accurate method to enumerate the migration of individual nationalities.

¹³ Email correspondence with NFU.

the workforce (GLA 2014: 31). If this did occur, it would have wider consequences for the industry, as ‘the last thing a supermarket wants is a headline you know “big supermarket caught with illegal immigrants”’. The supermarket would drop that supplier immediately’ (NFU policy officer, interview 2011). If such a situation does or has occurred, the closing of the scheme has only worsened irregular migration, an area where the Conservative government have focused much of their enforcement efforts to eradicate.

Yet perhaps the most damaging and likely implication of terminating SAWS in the long run, and the one which goes completely counter to the government’s intention to fill shortages with British labour, is the further mechanisation of production to reduce the need for labour (NFU 2012: 5; MAC 2013: 173). In other words, growers reduce labour requirements by increasing the input of capital such as investing in technology which can either replace labour or make labour more efficient. Such moves to mechanisation have included table-top technology to improve efficiency of the picking process; in salads and brassicas picking rigs have enabled crops to be picked, washed, processed, packaged, labelled and carted in the field; and in top fruit and stoned fruit new dwarf varieties of trees have been developed which have greatly eased picking. Whilst such technological developments are a long-term solution and cannot replace current labour-intensive demands, if employers do face detrimental labour shortages, the mechanisation of agricultural production may be the inevitable solution. Such developments would go counter to the government’s intention behind closing the scheme: to recruit more British workers.

The government have self-imposed a loss by closing SAWS, particularly in terms of not meeting labour shortages in a sector dependent on a flexible labour pool. Whilst such dependence is without question constructed by employers in the sense that the working conditions offered are poor in comparison to other sectors, with tight profit margins and increasing product demand, there is little hope for overhauling working practices in the sector. For the government such labour market losses might be offset if ending SAWS decreased net migration, increased resident employment and appeased public concerns. Yet the cessation of SAWS does not fulfil any of these ambitions, and may in fact increase irregular migration causing both an increase in exploitation of workers, and swelling an underground labour pool, something the Conservative government have, at least rhetorically, sought to tackle. The lack of a comprehensive package for migrant workers, which SAWS had provided, may also cause a slight fiscal increase in costs to public services, and worsen community cohesion in geographical areas that are dominated by agricultural workers. Terminating SAWS is an ‘own goal’ for the UK in this respect, and represents the first loss in what had previously been a triple win.

Loss two: sending states

Sending states benefit from their migrant workers and temporary migration policies in various ways. The most important of these benefits are those concerning remittances and skill transfers.

Ruhs (2006: 17) argues that the return of immigrants can influence the home society positively in two ways. Firstly, migrant workers transfer skills between states, which are made possible by the return mechanism in place. Secondly, development can occur through businesses or entrepreneurship that are opened with the capital of the returnees. Although generally the high-skilled migrant workers are assumed to contribute more with skills transfers to their home countries in contrast to low- or mid-skilled workers (Iredale 2001), such transfers are also relevant for low-skilled temporary jobs. For example, Balaz and Williams (2004) found that, in the case of Slovakian return migrants who had stayed temporarily in the UK, the level of human capital transfer was high.

In terms of the transfer of skills, SAWS was considered a successful scheme; according to the NFU 'it was a way of providing them with vocational experience in another country. So it was a very well-balanced scheme – a lot of benefits and very easy to manage' (interview with NFU 2011). As a GLA officer stated in an interview, agricultural work was used as a 'stepping-stone' for many migrant workers and those who had gained the skills could go back and use them in their countries:

Because agriculture was much seen as a stepping-stone for workers with some skills and intelligence to get away from the very basic level of work into something better. So the Polish economy, which I think had 40 per cent unemployment when they came, improved, so anybody who has got skills and ability to be mobile, went back. Not everybody did, large populations in communities of Poles were established and created. But some of them went back with certain skills; others not because people who are already in the country would use the agricultural work as a stepping stone; the better able workers have left (interview with Darryl Dixon, Director of Strategy at GLA, 2015).

Besides skills transfers, remittances are the major contributory factor which TMPs are said to bring to sending states. Whilst remittances are an important source of development for sending states from all types of mobility, temporary migration has been found to bring even greater remittances than more permanent migration, precisely because migrant workers intend to return, and thus have high incentives for investing in their country of origin (Dustmann and Mestres 2010). Both the migrant workers' families and the sending states can benefit from remittances, which can make a significant contribution to gross domestic product (GDP). Temporary emigration is also desired in comparison with permanent emigration by the sending states because those who migrate permanently decrease their remittances over time (Dustmann and Mestres 2010).

A number of studies have found positive advantages of TMPs for sending states. Markova (2010) for example found that Bulgarian returnees from TMPs contributed positively to the Bulgarian economy through an increase of small businesses made possible through remittances. Lucas (2005) argues that consumption in sending states

is increased via temporary migrant workers' families, which has revived some local economies.

For some sending states, the remittances acquired from temporary migrant workers provide a main source of income. As one interviewee explained:

The Moldovans as well were sort of saying: we're being shut out. We do what we can to keep Moldovan workers coming to the UK because it's the central income for them – UK wages are 20 to 40 times higher than theirs. So if you've got someone who's a second year student if they could spend six months in the UK then that would fund their studies, so they benefited a lot from that (NFU policy officer, interview 2011).

Skill transfers acquired are clearly beneficial for both the migrant themselves and their country of origin, but furthermore the return clause inherent in TMPs acts as a prevention of brain drain, as the intention is for the worker to return home.

Loss three: migrant rights

One of the most important losses is that of the rights of the migrant workers. The debate on temporary migrant rights has resulted in three different critical positions. Ruhs (2013) argues that there is a trade-off between rights and numbers, while Mayer (2005) has suggested that some exploitation could be acceptable if the migrant workers are also benefiting from the schemes. In contrast to these perspectives, Lenard and Strachle (2012) argue that there is no need to eliminate the programmes or decrease the numbers but it is possible to improve them by giving the opportunity to migrant workers to have more rights gradually and have a route to permanent residency. Closing the SAWS undermined all three of these perspectives. Yet terminating SAWS does little to improve rights or reduce numbers and could lead to deterioration in the rights of seasonal agricultural workers.

International conventions have had limited effects on the protection of the rights of temporary migrant workers (Ruhs 2011), despite efforts to enforce standardised practices. The most prominent conventions to protect the rights of migrant workers are the International Labour Organization (ILO) Conventions 43 and 97 and the 1990 UN Convention.¹⁴ Besides these, the 2005 adoption of the ILO Multilateral Framework on Labour Migration offers guidelines on labour migration policies while stressing cooperation between the sending and receiving countries, employers and also the migrant workers (Martin 2006: 53-54). At the domestic level, in the UK,

the right to work provides the conceptual basis for a number of labour market principles which workers in Britain would expect to be applicable to them as a matter of course – including the possibility to resign, the freedom to change

¹⁴ <http://www2.ohchr.org/english/bodies/cmw/cmw.htm> accessed 31 July 2015.

employer, the freedom to take a second job, and the possibility to move to the other parts of the UK for the purposes of employment (Ryan 2005: 25).

However, Ruhs (2011) draws attention to the rights granted at the international level to the migrant workers, and how the reinforcement of these rights is neglected at the domestic level in many nation-states. For instance, most of the SAWS workers cannot benefit from these rights if they are tied to one employer. This conditionality makes it impossible for them to move and search for jobs in other places. Hence, this restriction could lead to staying in the same workplace even if exploitation occurs.

Whilst being a successful programme overall, the SAWS had limitations in relation to the lack of an integration scheme for the migrant workers. Nonetheless, closing the programme could be more damaging, since an under-regulated area might become wholly unregulated, and this could have a negative effect on both employers and employees. Coupled with deregulation in the labour market, and not being obliged to abide by international conventions, the rights of migrant workers could be further at risk. From an economic liberal perspective, closing the programme could also prevent competition amongst the operators to acquit SAWS work cards. If there is no competition to qualify for attaining SAWS work cards, the operators may well lower their standards.

Additionally, gangmasters might control the labour market more as recruiters, which might exacerbate the violation of rights of those migrants who do not speak the language or who are not aware of their rights in the UK. Therefore, having a programme such as SAWS is better than not having one at all (Scott 2015), since SAWS had provided the channels for legal entry and stay as well as checks and controls on the employers and in the workplace.

The lack of a holistic package for the migrant workers as a result of closing SAWS could mean that employers will assume less responsibility. One reason for this is the accommodation clause, which used to be provided by the employers. The accommodation of the migrants and their registration will now have to be ascertained by the workers themselves. Although this scenario is not unreasonable, this situation might generate further problems for the sustainability of the agricultural sector, as there might be delays in applications and issues finding accommodation for the migrant workers. If the local context is not suitable for these arrangements the rents for the migrant workers might get higher, causing further problems such as disadvantaged living conditions. In this case, they might end up staying again in overcrowded houses with a lack of basic utilities. If the employers were not responsible for accommodation this would also mean that the GLA would not have to check the premises of the employers where the migrant workers are staying. This could be one complication which would surface as a result of the closure of these programmes. As an NFU policy officer commented:

They can be mis-sold, they can be extorted in their country of origin and likewise when they come to their new host country, they don't know their way around, they don't know the employment laws, so they are a vulnerable

group. The SAWS operator will be on the ground in the country they're recruiting from, this year for recruitment for the next seasons.. They spend about three years getting them up to speed because they only want people who apply high standards, which is partly why SAWS has been such an uncontroversial scheme, because the operators control their local agents in the country of origin very carefully and scrupulously, but a lot of the recruitment going on in the A8 countries for example have probably been mis-sold or such like (NFU policy officer, interview 2011).

The closure of the SAWS could mean that the migrants who used to come on the basis of SAWS, in which certain standards were guaranteed, will be arriving and working on a more informal basis. There is a possibility that there might be more reliance on gangmasters, as it had been before the programme was established. This would mean that more informal employment and recruitment could take place. On the other hand, if the Bulgarians and Romanians do take more permanent jobs in other sectors, the labour to fulfill the labour market shortages would be met by the non-EEA countries, which could cause irregular migration patterns leading to a number of undocumented migrant workers who are more vulnerable. All these possibilities are not necessarily short-term consequences but may be medium to long-term implications.

Concluding remarks

In this paper we have argued that the UK government has imposed a triple loss by closing the SAWS in 2013, as the country will face labour market shortages, skills transfers could be lost between states, and migrants working in the UK agricultural sector could see violations of rights exacerbated, as the sector is able to operate with less regulation in many ways. As a result, we argue, in concurrence with the MAC (2013), the NFU (2012) and Scott (2015), that a modified version of SAWS be retained, one more akin to the pre-1990s programme where the scheme focused on recruiting students. However, we advocate that a new scheme must have new safeguards put in place, particularly in the way of introducing integration measures, which could alleviate potential exploitation. In the concluding part of the paper, we describe our policy recommendations and justification for such recommendations.

Recruitment practice and institutional arrangements

Whilst the SAWS programme has been championed as a relatively successful TMP, we suggest that a modified scheme could instead take the form of a bilateral agreement between the UK and particular sending countries. Alternatively, a modified agricultural programme could be incorporated as part of a Tier 5 Government Authorised Exchange Scheme, which would, like a bilateral agreement, ensure joint liability of the return of migrant workers between both host and sending state.

We recommend that the maintenance of the seasonal agricultural scheme should be reverted back to the pre-1990s SAWS, when the scheme was only open for

agricultural students. The modified scheme we propose should be less of a labour facilitator, and more a student exchange scheme, which focuses on the transfer of skills between states in this sector, whilst at the same time filling labour market shortages. In other words, the scheme should essentially be a student exchange scheme with the by-product of filling shortages.

In terms of sending countries to recruit from, much like Scott (2015), we propose that either all EU candidate countries be admitted, or exclusively Moldova and Ukraine. Such agreements with candidate countries would serve a diplomatic purpose to build allegiances with these countries, but we argue Moldova and Ukraine should have privileged access to the scheme because these countries have a dominant agricultural sector, making up 12 per cent (Rotaru 2015) and 8 per cent (OSW 2007) of total GDP respectively. Such a large sector means that the UK can surely only gain from the skills and knowledge of agricultural workers from these countries.

Whilst the UK has rarely engaged with bilateral agreements as a way to facilitate immigrant labour, such schemes are one of the main recruitment procedures for low to medium skilled labour in France, Italy and Spain. Bilateral agreements are problematic for a myriad of reasons, but we nonetheless believe that by recruiting and regulating agricultural labour through such an agreement, the fear of settlement of workers – which is one of the sources for the UK government’s anxiety (as well as public opinion in the UK) and thus closure of SAWS – will be alleviated, as the sending country will have a liability to ensure the return of their citizens. By creating mutual liability, with the UK ensuring that the rights of workers are protected, whilst the sending country ensures their return, we maintain that a temporary agricultural agreement could be sustainable and preferable to cessation of SAWS.

At the heart of this agreement is the need for a reciprocal clause so that UK students participating in agriculture-related degrees would likewise have the opportunity to stay and work in participating countries. This will bring the key win of *two-way skills transfers* to the fore of the programme, a process that resolutely contributes to the triple-win scenario. A reciprocal agreement like this could be modelled on the Youth Mobility Scheme, where for countries to participate they must demonstrate that they have effective return arrangements in place. This means that the UK government must be satisfied that there is an effective means of enforced return, which requires the sending state to accept EU letters for the purpose of returns (or national passports or emergency travel documents); the sending state must also re-document their nationals swiftly at a level commensurate with demands, and receive their nationals in a timely and appropriate manner. As a reciprocal agreement the UK would in turn adhere to this arrangement by ensuring the return of UK citizens. In this way, ensuring return will be a joint liability, allowing for greater state oversight and making the scheme strictly temporary and hence more palpable for government policy to appease public concerns.

To prevent the violation of agricultural workers’ rights, we submit that the GLA and UK Visas and Immigration need to conduct more regular inspections of the accommodation and working conditions of workers on sites, and that the GLA, in conjunction with HM Revenues and Customs, needs to enforce the minimum wage

much more effectively. Evidently the need to enforce the minimum wage is a much wider problem that is not exclusive to the agricultural sector or indeed migrant workers generally. Nonetheless, without effective oversight and regulation, of which the GLA has been successful within its confined remit, the protection of migrant workers' rights will be unattainable.

Rights: integration mechanisms

Since TMPs often contain terms and conditions that are conducive to exploitative circumstances, there is a need to ensure the rights of the migrant workers during their stay. We argue that the migrant workers can be integrated temporarily and that this temporary integration should consist of policies such as providing language courses at (at the very least) A1 level on the Common European Framework of Reference for Languages (CEFR). We suggest that employers, in conjunction with operators and the educational institutions in which the students are registered, can jointly meet the funding of these courses. As a large amount of research shows (Spencer et al. 2007), learning even the basics of the host language can mitigate and prevent some of the worst exploitation that agricultural migrants face. These courses would provide the migrant workers with the necessary tools to integrate within the period they are staying and working. In other words, this would provide a level of social and cultural integration, given that the impacts of immigration flows are mostly observed at the local level. Another proposition of such integration could be to raise awareness in the localities so that the people are informed about the migration patterns, migrants, programmes and their specific contribution to the local economy. These kinds of activities and efforts would enhance community cohesion while at the same time providing a shield against exploitation of migrant workers.

We also suggest that a pre-departure orientation package be set-up for migrant workers as part of a modified scheme. Whilst the UK has, to the best of our knowledge, never initiated a formal pre-training programme, these exist as part of bilateral agreements in numerous states, including the agricultural scheme in the USA. Recently the Canadian government has also put in place an on-arrival orientation programme for temporary Mexican workers (in their own language and in English), which outlines their rights and responsibilities at the ports of entry. Such pre-orientation programmes have been very successful at integrating migrants in many states, reducing community cohesion problems. Consequently, the advocacy sector, including the ILO (2014), has pressed for such measures to be standard practice.

With regards to these packages, both the sending and the receiving states should take some of the responsibility, in consultation with trade unions. Hence, the financial responsibility could be divided between the sending and the receiving states, which are two of the beneficiaries in the triple-win scenario. These pre-departure orientation programmes could include: being advised on working conditions, what migrants are expected to do regarding their work (limits and contents of their tasks), what their labour rights are in the host state, instructing them about the conditions on return, including any incentives to return that are proposed by the sending state (in case that

the sending state prevents these incentives). We see no reason why a similar package cannot be provided either before workers/students arrive or as soon as they arrive. This is not only a practical but also an ethical consideration on the side of the states, policy-makers and the employers. Table 3 provides a summary of our policy recommendations.

Table 3 Summary of policy recommendations:

<ul style="list-style-type: none"> • Exclusively agricultural students • A bilateral agreement or new scheme under Tier 5 Government Authorised Exchange • A reciprocal clause enhancing two-way skills transfers • Return as condition of visa; sending states now liable for citizens' return and could be black-listed if non-return rate was high • No change to time limits; quotas dependent on labour market needs and political feasibility; EU candidate countries or specifically Moldova and Ukraine • Integration measures: language classes funded by some combination of educational institutions of agricultural students, operators, and employers • Pre-training: orientation package explaining rights in conjunction with trade unions
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Appendix: List of Interviews

Deputy Chief Executive of the British Hospitality Association (15/11/12)

Don Flynn, Director Migrant Rights Network; former policy officer for Joint Council for the Welfare of Immigrants (20/07/11 and 11/6/2014)

Senior Legal Adviser at National Farmers Union (22/11/11)

Employment Relations Senior Research Fellow, Working Lives Research Institute; formerly TUC (project manager for establishing European workers council and board for GLA) (04/08/11)

Head of Strategic Organising for UNISON; National Development Manager for Migrant and Vulnerable Workers 2008-2011 (07/7/11)

UKVI Regional Manager (1/07/15)

Rosa Crawford, TUC Policy Officer, TUC (12/6/2014)

Roy Millard, Southeast England Councils (5/4/2015)

Darryl Dixon, Director of Strategy, GLA (4/3/2015)

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